

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE COMPLAINT

Case No. 1:17-cv-168 (MAD/CFH)

of

TAPPAN ZEE CONSTRUCTORS, LLC,  
as owner of 2007 Lobell Boat, Serial Number  
L0A11504J607, FOR EXONERATION FROM  
OR LIMITATION OF LIABILITY,

**NOTICE OF MOTION**

Petitioner.  
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PLEASE TAKE NOTICE, that upon Claimant's Motion to Vacate Injunction Against Claimant and Lift the Stay of State Court Action Allowing Claimant to Proceed with the State Court Action dated April 28, 2017; Affidavit of Attorney in Support of Motion to Vacate Injunction dated April 28, 2017 and Memorandum of Law of Steven M. Melley, Esq. dated April 28, 2017, and upon all of the pleadings and proceedings heretofore had herein, the undersigned will here move this Court before the Honorable Mae A. D'Agostino, at the United States District Court Northern District of New York, in Albany, New York on the 5<sup>th</sup> day of June, 2017 at 9:30 o'clock in the forenoon of that day for an Order lifting the stay and vacating the injunction issued this Court's order dated March 17, 2017 and otherwise to:

1. Accept as satisfactory the Claimant's Stipulations, dated the 18th day of April, 2017, and filed with this Court on April 18, 2017 remove, vacate and otherwise terminate the Order of this Honorable Court, dated March 17, 2017, which enjoined and stayed the action between Claimant, Timothy Marion, and Petitioner, TMZ Constructors, LLC, *et al.*, pending in the Supreme Court of the State of New York in and for the County of Ulster, Index No. 2180/2016 and, to
2. Remove, vacate and otherwise terminate the prior Order of this Honorable Court, dated, March 17, 2017, which enjoined the Claimant, Timothy Marion from pursuing his claims against Petitioner herein, TMZ Constructors, LLC, *et. al.*, and lift the stay of the State Court action filed under Index No. 2180/2016 in the Supreme Court of the State of New York in and for the County of Ulster; and, to

3. Reserving to this Honorable Court, the exclusive jurisdiction to entertain and complete all issues concerning this Limitation Action/Proceeding to Exonerate Petitioner from Liability and/or to Limit its Liability pursuant to 46 U.S.C ss 30501, *et seq.*, and Supplemental Rule F of the federal rules of civil procedure.

Upon the single claimant's stipulations heretofore filed on April 19, 2017 and pursuant to Supplemental Admiralty Rule F of the Federal Rules of Civil Procedure; and for such other and further relief as this Court deems just and proper.

Dated: May 3, 2017  
Rhinebeck, New York

STEVEN M. MELLEY, PLLC



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